

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Jerry R. Baker,
Petitioner-Appellant,

v.

Polk County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 09-77-1404
Parcel No. 010/04131-055-000

On December 17, 2010, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioner-Appellant Jerry R. Baker requested a hearing and submitted evidence in support of his petition. He was self-represented. The Board of Review designated Assistant County Attorney Anastasia Hurn as its legal representative. It also submitted evidence in support of its decision. The Appeal Board now having examined the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

Jerry R. Baker, owner of property located at 2811 S.E. 22nd Street, Unit #1310, Des Moines, Iowa, appeals from the Polk County Board of Review decision reassessing his property. According to the property record card, the subject property consists of a one-story condominium having 1276 total square feet of living area, a full, unfinished basement, and a 440 square-foot, attached garage. The property is also improved by a 68 square-foot open porch and a 128 square-foot deck. The dwelling was built in 2002 and has a 4+10 quality grade. The dwelling is an end unit of a four-unit building, in a 56-unit condominium complex known as River Chase Development. The record indicates that Baker purchased the property for \$145,900 in September 2006.

The real estate was classified as residential on the initial assessment of January 1, 2009, and valued at \$135,700, representing \$21,700 in land value and \$114,000 in dwelling value.

Baker protested to the Board of Review on the grounds that the assessment was not equitable as compared to similar properties in the taxing jurisdiction under Iowa Code 441.37(1)(a), and that the property was assessed for more than the value authorized by law under section 441.37(1)(b). He claimed \$118,500, allocated \$21,700 to land and \$96,800 to the dwelling, was the actual value and a fair assessment of the property. The Board of Review denied the protest stating, "The assessed value of this property was not changed because the assessment is equitable with that of similar property in the area."

Baker then filed his appeal with this Board and claimed the grounds of equity and of downward change in value under sections 441.37(1) and 441.35(3). In a re-assessment year, a challenge based on downward change in value is akin to a market value claim. *See Dedham Co-op. Ass'n v. Carroll County Bd. of Review*, 2006 WL 1750300 (Iowa Ct. App. 2006). Accordingly, we do not consider downward change as a separate claim and consider only the claims of equity and over-assessment.

Baker testified he believes his assessment is high based on comparable sales. He uses a sale of 2811 SE 22nd Street, Unit #940 to support his assertion. This unit sold in June 2009 for \$135,000 and is assessed for \$134,500. Baker testified this unit has a fully finished basement, unlike his property. Therefore he believes his unfinished basement should result in a lower assessment. Records indicate, however, that Unit #940, in fact, does not have a finished basement. The assessment of this property is similar to Baker's property assessment, yet his property is two years newer. The sale and assessment do not support his equity claim.

Baker also identified four condominium units in the complex that he believed support his argument for a reduced assessment. He made no adjustment to the comparable properties. The

following chart compares select features of the subject property and the identified units based on data from their property record cards:

Address	Story	Built	TSFLA	Basement	Assessed Value
2811 S.E. 22nd Unit #1310-Subject	One-End Unit	2002	1276	Full-Unfinished	\$ 135,700
2811 S.E. 22nd Unit #810	One-End Unit	2000	1276	None	\$ 117,100
2811 S.E. 22nd Unit #820	Two-Middle Unit	2000	1419	None	\$ 116,400
2811 S.E. 22nd Unit #830	Two-Middle Unit	2000	1276	None	\$ 113,800
2811 S.E. 22nd Unit #840	One-End Unit	2000	1276	None	\$ 117,100
2811 S.E. 22nd Unit #940	One-End Unit	2000	1276	Full-Unfinished	\$ 134,500

The records submitted by the Board of Review show four of the identified properties lack basements and are constructed on concrete slabs, which accounts for the value differences. The base cost of Baker's full basement is \$20,595 which is the approximate difference in assessment between the townhouses with basements and those constructed on slabs. The last unit identified (#940) does have a full, unfinished basement like the subject property and is similarly assessed.

Finally, Baker argues the location of his townhouse location nearer to a busy street negatively impacts the value of his property and should reduce its value. He provided no evidence to support this claim.

Reviewing the record as a whole, we find that the preponderance of the evidence does not support Baker's claims of inequitable assessment or over-assessment as of January 1, 2009.

Conclusion of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the

property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

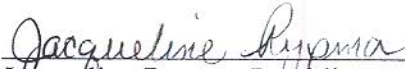
In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).


In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Baker supplied one sale as well as a list of other properties' assessments. The sale and assessments, rather than supporting Baker's claim, instead support the current assessed value of the property.


Therefore, we affirm the property assessment as determined by the Board of Review. The Appeal Board determines that the property assessment value as of January 1, 2009, is \$135,700, representing \$21,700 in land value and \$114,000 in dwelling value.

THE APPEAL BOARD ORDERS that the January 1, 2009, assessment as determined by the Polk County Board of Review is affirmed.

Dated this 7 day of January 2011.


Jacqueline Rypma, Presiding Officer


Karen Oberman, Board Chair


Richard Stradley, Board Member

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>1/22</u> , 201 <u>1</u>	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	